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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/618,801

07/14/2003

Richard S. Kosoff

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07/27/2004

Colin P. Abrahams
Suite 400
5850 Canoga Avenue
Woodland Hills, CA 91367

EXAMINER

TRAN, THUY V

ART UNIT

PAPER NUMBER

2821

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/618,801

Applicant(s)

KOSOFF, RICHARD S.

Examiner

Thuy V. Tran

Art Unit

2821

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-9, 16-19, 21, 24, 25, 27 and 28 is/are rejected.
- 7) ☒ Claim(s) 5, 10-15, 20, 22, 23, 26 and 29-32 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/14/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is a response to the Applicant's filing on July 14th, 2003. In virtue of this filing, claims 1-32 are now presented in the instant application.

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on July 14th, 2003 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Drawings Objection

2. The drawings are objected to because the drawing lines in all the figures are not uniform. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections/ Minor Informalities

3. Claim 29 is objected to because of the following informalities:

Line 4, "programing" should be changed to --programming--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 6-9, 16, 18-19, 21, and 27-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Ha (U.S. Patent No. 6,242,872).

With respect to claim 1, Ha discloses, in Figs. 1-4, a nightlight and control unit comprising (1) a nightlight housing [11] including an illumination member [20]; (2) a control unit [14] associated with the nightlight housing for regulating light in a light device [100] connectable to the control unit [14]; and (3) input means [13] for programming (see col. 2, lines 37-38) the control unit [14].

With respect to claim 2, Ha discloses, in Figs. 1-2, that the housing [11] comprises a dome shaped cover [80] (see col. 3, line 19) mounted on a flat base [30], the base having legs, the dome shaped cover and base defining a chamber in which the illumination member is accommodated.

With respect to claim 3, Ha discloses, in Figs. 1-3, that the control unit [14] is located within the housing [11].

With respect to claim 6, Ha discloses, in Fig. 2, that the input means [13] is located on the nightlight housing [11].

With respect to claim 7, Ha discloses, in Figs. 2-3, that the input means [13] comprises time-setting means [40], whereby the control unit [14] is programmed to regulate the light device so that the light therefrom fades to off over a pre-selected time period (see col. 2, lines 37-53).

With respect to claim 8, Ha discloses, in Figs. 2-3, that the time-setting means [40] comprises an annular, rotatable ring member formed on the housing [11]; the annular rotatable ring member being slidable between a first position wherein the light on the light device is regulated to fade over a shorter period of time, and a second position wherein light from the light device is regulated to fade over a longer period of time (set by the numbers marked as 1-12; see Fig. 3).

With respect to claim 9, Ha discloses, in Figs. 2-3, that the time-setting means [40] comprises a rotatable knob formed on the housing [11].

With respect to claim 16, Fig. 1 of Ha shows that the illumination member [200] is an incandescent bulb.

With respect to claim 18, Figs. 1-3 of Ha show that the nightlight and control unit further comprise adjustment means [30] (which is a dimmer) for adjusting the intensity of the illumination member.

With respect to claim 19, Figs. 1-3 of Ha show that the nightlight and control unit further comprise an on/off switch [50] for the illumination member.

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With respect to claim 21, Fig. 1 of Ha shows that the dome shaped cover [80] appears to be comprised of a fully or partially translucent material to permit light from the illumination member therein to be transmitted through the dome cover.

With respect to claim 27, Fig. 1 of Ha shows that the housing [11] is configured in a shape of a toy structure.

With respect to claim 28, Figs. 1-3 of Ha show an adjustment means [30] (which is a dimmer) for setting the initial light intensity of the light device prior to initiation of the fading out process.

6. Claims 1, 4, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Nilssen (U.S. Patent No. 4,712,019).

With respect to claim 1, Nilssen discloses, in Figs. 1-3, a nightlight and control unit comprising (1) a nightlight housing including an illumination member (which appears to be a light bulb; see Fig. 3); (2) a control unit [RCM, T] associated with the nightlight housing for regulating light in a light device [TL] connectable to the control unit [RCM, T]; and (3) input means [T] for programming (see col. 4, line 43) the control unit [RCM, T].

With respect to claim 4, Nilssen discloses, in Fig. 3, that the control unit [RCM, T] is outside of the housing and electrically connected thereto.

With respect to claim 7, Nilssen discloses that the input means [T] comprises time-setting means [PK1, ..., PK9], whereby the control unit [RCM, T] is programmed to regulate the light device so that the light therefrom fades to off over a pre-selected time period (see col. 4, line 43 – col. 5, line 11).

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(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 1, 16-18, and 24-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Dowling et al. (Pub. No. US 2003/0214259 A9).

With respect to claim 1, Dowling et al. discloses, in Figs. 1 and 5, a nightlight and control unit comprising (1) a nightlight housing [65] (see Fig. 5) including an illumination member [4] (since system in Fig. 1 can be used in system of Fig. 5; see paragraph [0072], lines 2-3); (2) a control unit [3] associated with the nightlight housing for regulating light in a light device [60] (see Fig. 5) connectable to the control unit 3[]; and (3) input means [1, 2, 6] for programming the control unit [3].

With respect to claim 16, Dowling et al. discloses that the illumination member [4] can be an incandescent bulb (see paragraph [0050], line 4).

With respect to claim 17, Dowling et al. discloses that the illumination member [4] is LEDs (see Fig. 1).

With respect to claim 18, Dowling et al. further discloses adjustment means [3] for adjusting the intensity of the illumination member [4] (see paragraph [0054], lines 5-6).

With respect to claim 24, Dowling et al. discloses that the control unit [3] regulates light from a plurality of light devices [4] (see Fig. 1; see paragraph [0054], lines 5-6).

With respect to claim 25, Dowling et l. discloses that the control unit [3] can regulate light in the plurality of light devices [4] so as to fade to off over a different period of time for each light device [4] (see paragraph [0054]).

Allowable Subject Matter

8. Claims 5, 10-15, 20, 22-23, 26, and 29-32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior art fails to disclose or fairly suggest:

- A nightlight and control unit wherein the control unit comprises a box containing circuitry for regulating light in the light device, a light device connector means for electrically connecting the light device with the control unit, a nightlight connecting means for connecting the control unit with the nightlight, and a power cable for connecting the control unit to a power source, in combination with the remaining claimed limitations as called for in claim 5;
- A nightlight and control unit wherein the time-setting means comprises a plurality of buttons on the surface of the housing, each button representing a time period over which the light from the light device is regulated to fade to off, in combination with the remaining claimed limitations as called for in claim 10 (claims 11-12 are also allowable since they are dependent on claim 10);
- A night light and control unit further comprising a timer display for indicating time remaining for regulating the light in the light device, in combination with the

remaining claimed limitations as called for in claim 13 (claims 14-15 are also allowable since they are dependent on claim 13);

- A nightlight and control unit wherein the on/off switch is electronically operated by an ambient light detector so that the illumination member will become illuminated when ambient light conditions drop below a preset level, in combination with the remaining claimed limitations as called for in claim 20;
- A nightlight and control unit wherein the housing includes a translucent window through which light from the illumination member can pass, in combination with the remaining claimed limitations as called for in claim 22 (claim 23 is also allowable since it is dependent on claim 22);
- A nightlight and control unit further comprising a selector switch for selecting separately each one of the plurality of light devices for programming, in combination with the remaining claimed limitations as called for in claim 26;
- A nightlight and control unit wherein the input means comprises a remote control transmitter unit, the control unit having receiving means for receiving signals from the remote control transmitter unit for programming the control unit, in combination with the remaining claimed limitations as called for in claim 29;
- A nightlight and control unit wherein the input means further comprises a remote control transmitter unit, the control unit having receiving means for receiving signals from the remote control transmitter unit for programming the control unit, in combination with the remaining claimed limitations as called for in claim 30; and

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- A nightlight and control unit wherein the housing comprises (1) a dome shaped cover spring mounted on a base member, (2) a plunger is formed inside the dome shaped cover, and (3) a switch mechanism connects to the control unit, wherein the switch mechanism being activated by the plunger when the dome shaped cover is pushed against the bias of the spring mounting, a first push of the plunger causing the light device to switch on and a second push of the plunger causing the predetermined dimming sequence to begin, in combination with the remaining claimed limitations as called for in claim 31 (claim 32 is also allowable since it is dependent on claim 31).

Citation of relevant prior art

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Prior art Pederson (U.S. Patent No. 6,367,949) discloses an LED utility lamp.

Prior art Lipman et al. (U.S. Patent No. 4,497,582) discloses a lighting device.

Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy V. Tran whose telephone number is (571) 272-1828. The examiner can normally be reached on M-F (8:00 AM -5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on (571) 272-1834. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thuy V. Tran
Examiner
Art Unit 2821

07/24/2004

A handwritten signature in black ink, appearing to read 'Thuy V. Tran', is written over the printed name and title.